

THE EFFECTIVE DATE OF THIS ORDINANCE IS December 18, 2003

ORDINANCE NO. 03-18-341

OPINION, FINDINGS AND ORDINANCE
OF
THE BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

Re: Application of Frederick Westview Properties, LLC

OPINION/FINDINGS

Ordinance No. 94-14-109 granted the MXD floating zone classification for a 377 acre parcel of land located east of New Design Road, west of Maryland Route 85 and approximately 2200 feet south of Interstate 270 in the Frederick and Adamstown Planning Regions. By Ordinance No. 01-15-289 the Board of County Commissioners granted the reclassification of 200.90087 acres (of the 377 acre parcel) from the MXD floating zone with a residential component to the MXD floating zone without a residential component with certain established maximum permitted land use mixed percentages and subject to conditions.

Frederick Westview Properties, LLC has now requested that approximately 2.1 acres now designated for employment use in the MXD zone be changed to a commercial designation within this MXD zone. This property is located near the intersection of Crestwood Boulevard and Maryland 85. The 2.1 acre parcel for which the change in designation is requested is Lot 2, located at the southeast corner of Crestwood Boulevard and Westwood Drive. Condition 12 of Ordinance No. 01-15-289 reads:

12. The 33 acre retail area shown on the land use plan (Exhibit A attached to Ordinance No. 94-14-109) at the southwest intersection of Crestwood Boulevard and Route 85 shall be reduced to a maximum of 20 acres with the remainder of the 33 acre areas being used in the office/research category.

The 2.1 acres requested for redesignation is currently part of “the remainder of the 33 acre area”. The applicant’s request is to increase the maximum retail area of 20 acres to 22.1 acres by the addition of this 2.1 acres.

Redesignating this particular 2.1 acre site from office/research category to the retail category meets the overall objective of efficient use of the land. The development of this 2.1 acre site in the context of the larger Westview Entertainment Complex will not affect the overall integration of commercial and employment uses in the MXD. Retail commercial use at this 2.1 acre site is compatible with the rest of the retail uses at this location. The additional 2.1 acres of retail use at this location will not cause the overall commercial acreage of the MXD zoned area to exceed the percentages allowed under the MXD provisions of the zoning ordinance.

This site is designated office/research in the Frederick Region Comprehensive Plan. The existing MXD zoning on the property is compatible with the comprehensive plan. The MXD allows a mixture of commercial and employment uses. The zoning designation of this property is not being changed. That is, the 2.1 acre site continues to be zoned MXD both before and after the

adoption of this ordinance. The requested redesignation of this 2.1 acre site is consistent with the Frederick County Comprehensive Plan.

Public services and facilities are adequate to serve the 2.1 acre site.

The Frederick County Planning Commission reviewed this proposal and found that the proposed addition of 2.1 acres of retail commercial use in place of a hotel or office use is consistent with the comprehensive plan and recommended approval subject to all of the MXD plan notes and conditions and amending Condition 12 limiting the retail commercial use at this location to 22.1 acres and with the following conditions:

1. The Frederick County Planning Commission as part of Site Plan Approval, in order to ensure that the objectives of the MXD Zoning District are met, must approve the specific type of commercial retail uses.
2. The architectural design theme of the larger commercial retail area must be continued on this parcel. Architectural elevations must be submitted to the Frederick County Planning Commission for review and approval concurrent with any site plan approval.
3. The applicant will be required to participate in pro-rated share of area transportation improvement plans as well as meeting site-specific APFO requirements to the extent that trip generation increases.
4. The Planning Commission will review the pedestrian circulation as part of Site Plan approval.
5. An amended and updated MXD Land Use Plan will be submitted upon successful conclusion of this request. Any notes now satisfied or no longer applicable will be so noted.

The Board finds that the conditions imposed by this ordinance are related

both in nature and extent to the impact of the proposed development. The benefit to the applicant in obtaining this modification to the MXD zoning is roughly proportionate to any detriment caused by these conditions. Ordinances No. 94-14-109 and 01-15-289 remain unchanged except as specifically indicated in this Ordinance.

Accordingly, this application is granted with the conditions set forth in the Planning Commission recommendation.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND that for the reasons set forth above in its Opinion/Findings and in addition for those applicable reasons set forth in Ordinance No. 94-14-109 and Ordinance No. 01-15-289, (Case No. R-93-4), the applicant's request is hereby GRANTED to redesignate the 2.1 acre parcel in the retail category and that Condition No. 12 of Ordinance No. 01-15-289 is hereby amended as follows:

12. The 33 acre retail area shown on the land use plan (Exhibit A attached to Ordinance No. 94-14-109) at the southwest intersection of Crestwood Boulevard and Rt. 85 shall be reduced to a maximum of [20] 22.1 acres with the remainder of the 33 acre area being used in the office/research category.

The 2.1 acres redesignated are subject to the following conditions:

1. The Frederick County Planning Commission as part of Site Plan Approval, in order to ensure that the objectives of the MXD Zoning District are met, must approve the specific type of commercial retail uses.

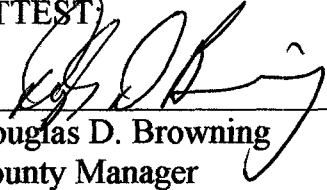
2. The architectural design theme of the larger commercial retail area must be continued on this parcel. Architectural elevations must be submitted to the Frederick County Planning Commission for review and approval concurrent with any site plan approval.
3. The applicant will be required to participate in pro-rated share of area transportation improvement plans as well as meeting site-specific APFO requirements to the extent that trip generation increases.
4. The Planning Commission will review the pedestrian circulation as part of Site Plan approval.
5. An amended and updated MXD Land Use Plan will be submitted upon successful conclusion of this request. Any notes now satisfied or no longer applicable will be so noted.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that except as specifically amended in this Ordinance, Ordinances No. 01-15-289 and 94-14-109 remain unchanged.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the Zoning Administrator is hereby authorized and directed to make the appropriate change, if any, on the zoning map showing this MXD Floating Zone Classification for the 2.1 acres, with conditions as indicated above.

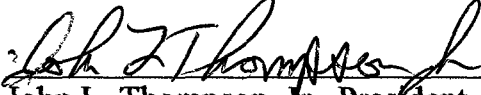
The undersigned hereby certifies that this Ordinance was approved and adopted on the 4th day of November, 2003.

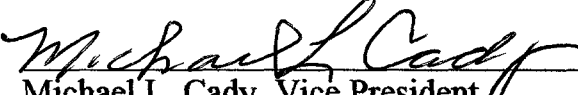
ATTEST


Douglas D. Browning
County Manager

MJC 12/18/03

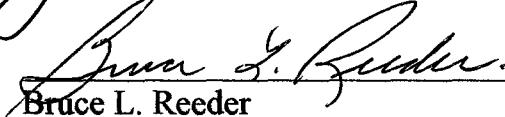
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